

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4300 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5 No

PRATAPSIINH AMARSINH JETHWA

Versus

DISTRICT MAGISTRATE

Appearance:

MR ANIL S DAVE for Petitioner

Mr. Nigam Shukla, learned Asst.G.P. for the respondents.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 05/11/96

ORAL JUDGMENT :

1. This Special Civil Application is directed against the order dated 30-4-96 passed by the District Magistrate, Jamnagar detaining the petitioner under the provisions of the Gujarat Prevention of Anti Social Activities Act, 1985 (hereinafter referred to as 'the Act'). The detention order was executed on 1-5-96 and since then the petitioner is under detention lodged at

Bhuj Jail, Bhuj.

2. The present Special Civil Application was filed in this Court on 24-6-96 and on 25-6-96 Rule returnable on 22-7-96 was issued. So far neither any reply has been filed by the respondents nor the affidavit of the detaining authority has been filed.

3. The grounds enclosed with the detention order show that 5 criminal cases were registered against the petitioner at Jamnagar Panchkoshi 'B' Division Police Station for offences under the Bombay Prohibition Act. Apart from these 5 criminal cases, the detaining authority has also taken into consideration the statements made by certain witnesses on 16-4-96 against the petitioner's anti social activities and that he has been moving with weapons, has been beating innocent people, taking commodities from the traders without paying charges. The detaining authority has held the petitioner to be a bootlegger and accordingly the detention order has been passed.

4. The detention order has been challenged on more than one grounds. But the learned counsel for the petitioner has kept his arguments confined to the question that even if the allegations and materials against the petitioner are taken to be correct on its face value, it can not be said that a case of breach of public order is made out. At the most it is a case of breach of law and order.

5. For the reasons given in the judgment dated 4-10-96 in Special Civil Application No.3879/96 it is found that the allegations and materials, on the basis of which the detention order has been passed, do not constitute a case of breach of public order and it is at the most a case of breach of law and order. The detention order, therefore, can not be sustained in the eye of law.

6. Accordingly this Special Civil Application is allowed and the impugned detention order dated 30-4-96 passed by the District Magistrate, Jamnagar is hereby quashed and set aside and the petitioner's detention is declared to be illegal. The respondents are directed to release the petitioner and set him at liberty forthwith, if not required in any other case. Rule is made absolute.

